

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Case No. C-3:03-cr-017

Plaintiff,

-v-

**Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington**

CHARLES HARDEN

Defendant.

CHARLES HARDEN,

Case No. C-3:10-cv-169

Petitioner,

-v-

Judge Thomas M. Rose

Magistrate Judge Sharon L. Ovington

UNITED STATES OF AMERICA

Respondent.

**ENTRY AND ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #157 in criminal case, Doc.
#157 in civil case)**

This matter comes before the Court pursuant to Magistrate Judge Sharon L. Ovington's Report and Recommendations (doc. #157) regarding Charles Harden's ("Harden's") pro se Motion To Correct An Illegal Sentence, Where Uncounseled State Conviction Was Used To Enhance The Federal State Sentence In Violation Of Federal Law (doc. #156). The Magistrate Judge recommends that Harden's Motion be denied because it constitutes a second or successive § 2255 motion.

Harden has filed an Objection to this Report and Recommendations. The time has run and the United States of America has not responded. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that the Magistrate Judge's Report and Recommendations is adopted in its entirety.

Harden's Motion To Correct An Illegal Sentence, Where Uncounseled State Conviction Was Used To Enhance The Federal State Sentence In Violation Of Federal Law is DISMISSED.

Harden may apply to the United States Court of Appeals for the Sixth Circuit for an order authorizing this Court to further consider his present Motion To Correct An Illegal Sentence.

Finally, Civil Case No. 3:10-cv-169 is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton. Criminal Case No. 3:03-cr-017 remains terminated on the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and ORDERED in Dayton, Ohio, this Third day of June, 2010.

s/**Thomas M. Rose**

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Charles Harden at his last known address of record